IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 324 of 2000

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BALUBHAI JADAVBHAI

Versus

HASMUKHBHAI JADAVBHAI

Appearance:

MR AJ SHASTRI for the Petitioner.

MS KJ BRAHMBHATT for Respondent Nos. 1-2

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 04/03/2004

ORAL JUDGEMENT

The petitioner herein is the original plaintiff of Regular Civil Suit No.424 of 1998. In the said suit, the present petitioner gave an application Exhibit 5 for interim injunction. The trial court allowed the same, against which the present respondents preferred an

appeal, being Miscellaneous Civil Appeal No. 122 of 1999, before the appellate court. The learned appellate Judge allowed the said appeal and vacated the injunction granted by the trial court in favour of the present petitioner. Against the aforesaid order, the original plaintiff has filed this Civil Revision Application.

Mr.Shastri, learned Advocate for the petitioner, submitted that in view of the amendment in Section 115 of the Code of Civil Procedure, now, this revision against an interlocutory order is not maintainable. He submitted that, therefore, the petitioner would like to file a Special Civil Application under Article 227 of the Constitution of India, challenging the impugned order of the appellate court. He, therefore, wants permission to withdraw this CRA. Permission is granted. This CRA is disposed of as withdrawn. Rule is discharged. The order of status quo granted by this Court is ordered to continue upto 25th March, 2004.

Subject to what is stated above, the CRA is dismissed. Rule is discharged. No costs.

4th March, 2004 (P.B. Majmudar, J.)

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(apj)